

Issue Brief: Data Portability and Interoperability: The promise and perils of data portability mandates as a competition tool

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Lawmakers and regulators are increasingly exploring the imposition of data portability requirements on technology companies, in particular large digital platforms. These would require them to allow users to download their data from those services and/or have it sent to another service on their behalf, either on a one-off or ongoing basis, depending on the proposal.

In this comment, we explore the calls for data portability that arise from distinct and often opposing parts of antitrust law and competition policy, privacy law, and data security. Specifically, we focus on claims that data portability mandates can be used to increase market competition, considering the potential costs and benefits of such requirements, and the relationship between data portability as a pro-competition tool and other moves towards stronger laws governing user privacy.

We begin by discussing the concepts involved in mainstream proposals for data portability. We then examine the various competition issues involved in calls for data portability and discuss the case for and against data portability in these cases. Finally, we discuss in detail the UK's experience with its Open Banking mandate—the most comprehensive data sharing scheme imposed to effect a competition objective—and assess its effects, both intended and unintended.

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